

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

In re:) Chapter 11
)
EASTERN LIVESTOCK CO., LLC,) Case No. 10-93904-BHL-11
)
Debtor.)

**TRUSTEE'S OBJECTION TO CLAIM 343 FILED BY JESSE PHILLIP WHITLOW
AND NOTICE OF RESPONSE DEADLINE**

James A. Knauer, the chapter 11 trustee appointed in this case ("Trustee"), pursuant to Rule 3007 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), hereby objects (this "Objection") to claim 343 (the "Claim")¹ filed by Jesse Phillip Whitlow ("Mr. Whitlow"). The Trustee requests that the Court enter an order reclassifying the Claim as a general unsecured claim and reserves the right to object to the final allowed amount of the Claim if and when Mr. Whitlow receives payments outside the plan distributions made to Mr. Whitlow in this case. In support of this Objection, the Trustee respectfully states:

Jurisdiction

1. This Court has jurisdiction over this Objection under 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(B). Venue of this proceeding and this Objection is properly in this district pursuant to 28 U.S.C. §§ 1408 and 1409.
2. The statutory bases for the relief requested herein are 11 U.S.C. §§ 502, 506 and 507 and Rules 3001 and 3007 of the Bankruptcy Rules.

Background

3. On December 6, 2010 (the "Petition Date"), an involuntary chapter 11

¹ All references herein to the claim number are to the number assigned to the Claim by BMC (see paragraph 5 below) and not to the number, if any, assigned to the Claim by the Court's online claims register. For further explanation, see paragraph 5 below.

bankruptcy petition was filed to commence a chapter 11 case (the "Chapter 11 Case") against Eastern Livestock Co., LLC ("Debtor") in the United States Bankruptcy Court for the Southern District of Indiana, New Albany Division (the "Court").

4. On December 27, 2010, the Court entered an order approving the appointment of the Trustee and on December 28, 2010, entered an order for relief.

5. On March 17, 2011, the Court entered an order approving The BMC Group, Inc. ("BMC") as the Trustee's claims and noticing agent in the Chapter 11 Case. Pursuant to that order, BMC was authorized and directed to, among other things, maintain the official claims register ("Claims Register") for all filed proofs of claim in the Chapter 11 Case. A copy of that Claims Register and all filed proofs of claim in the Chapter 11 Case can be viewed at <http://www.bmcgroup.com/restructuring/Claims.aspx?ClientID=271>.

Request for Relief

6. By this Objection, the Trustee seeks entry of an order reclassifying the Claim as a general unsecured claim in an amount to be determined after Mr. Whitlow receives all non-plan payments.

7. The Claim asserts a "purchase money claim" in the amount of \$11,523.92. The Claim does not check any boxes for priority or secured status, but types in the words "purchase money claim." Further, the Claim does not cite any statute, security agreement or law to demonstrate any entitlement to secured or priority status. As a result, the Trustee does not believe that Claim asserts secured or priority status, but still files this Objection to clarify that the Claim should be classified as a general unsecured claim in the Chapter 11 Case.

8. Further, the Trustee believes that Mr. Whitlow has received payments from a victims' fund established by the Kentucky Attorney General's Office and may receive

further payments from the Kentucky Attorney General's Office and/or Debtor's bond that will reduce the amount of the Claim. The Trustee therefore reserves the right to object to the final allowed amount of the Claim.

9. The Trustee objects to the Claim and requests that the Claim be reclassified as a general unsecured claim in an amount to be determined after Mr. Whitlow receives all non-plan payments.

Notice of Response Deadline

10. If Mr. Whitlow wishes to contest the relief requested in this Objection, Mr. Whitlow must file a response with the Court within thirty (30) days of the service of this Objection ("Response Deadline"). Responses must be filed with the Clerk of the United States Bankruptcy Court, Southern District of Indiana, New Albany Division, 110 U.S. Courthouse, 121 West Spring Street, New Albany, IN 47150 no later than 4:30 p.m. EDT on the Response Deadline and served on Trustee's Counsel, Faegre Baker Daniels LLP, 300 N. Meridian Street, Suite 2700, Indianapolis, IN 46204 (Attn: Dustin DeNeal). **IF NO RESPONSE IS FILED BY THE RESPONSE DEADLINE THE COURT MAY SUSTAIN THE OBJECTION TO THE CLAIM WITHOUT FURTHER NOTICE OR HEARING.**

WHEREFORE, the Trustee respectfully requests that the Court enter an Order reclassifying the Claim as a general unsecured claim (subject to reduction in claim amount if Mr. Whitlow receives payment from non-plan sources) and granting the Trustee all other just and appropriate relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Dustin R. DeNeal

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CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2013, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on March 11, 2013, a copy of the foregoing pleading was mailed by first-class U.S. Mail, postage prepaid and properly addressed, to the following:

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/s/ Dustin R. DeNeal